marriage does not result and that the continued relation of the parties is pursuant to the void marriage contract. It would seem that this point has never previously arisen in a criminal case. On principle *Manning* v. *Spurck* 109 Ill. 447, 65 N. E. 342, is directly opposed to the principal case; there the parties joined in an invalid ceremonial marriage in Illinois and lived there until after the removal of the impediment. It was held that a common law marriage resulted after the removal of the impediment, although there was no new affirmative act by the parties. In accord with this case are: *DeThoren* v. *Atty. General,* 1 App. Cas. 686; *Eaton* v. *Eaton,* 66 Neb. 676, 1 Am. & Eng Ann. Cas. 109; *Teter* v. *Teter,* 88 Ind. 494; *Chamberlain* v. *Chamberlain,* 68 N. J. Eq. 414 and 736, 62 Atl. 680, 3 L. R. A. N. S. 244; *Rose* v. *Clark,* 8 Paige 574. It was held in *Travers* v. *Reinhardt,* 205 U. S. 423, that a marriage, invalid where contracted, did not prevent the forming of a common-law marriage in a state where such marriages were recognized although good faith could be credited to only one party. The defendants in *Bynon* v. *State,* 117 Ala. 80, and in *State* v. *Gonce,* 79 Mo. 600, were convicted of bigamy and the evidence of the first marriages was solely that of cohabitation and reputation. In accord with the principal case are *Collins* v. *Voorhees,* 47 N. J. Eq. 555, 14 L. R. A. 364, 24 Am. St. Rep. 412, and *Hunts Appeal,* 86 Pa. 294; and in the recent case of *Melton* v. *State* (Tex. Cr. App.) 158 S. W. 550 the court held that in order to constitute a valid common-law marriage sufficient to support a prosecution for bigamy there must be not only the assent of the parties to the marriage but also a continuous living together as husband and wife. For a general discussion of this subject see 8 MICH. L. REV. 325; 20 HARV. L. REV. 576 and 633.

BILLS AND NOTES—AMOUNT OF RECOVERY—ATTORNEYS' FEES.—A stipulation in a note for the payment of attorneys' fees is not against public policy or void, especially in view of the provisions of the Negotiable Instruments Act (Mills Ann. St. 1912, Sec. 5052) that the sum payable is a sum certain so as to render the instrument negotiable, although it is to be paid with costs of collection or an attorney's fee in case payment shall not be made at maturity, which impliedly recognizes such stipulations as valid. *Florence Oil & Refining Co.* v. *Hiawatha Oil, Gas & Refining Co.* (Colo. 1913) 135 Pac. 454.

The weight of authority seems to be with the holding of the principal case, i. e., that the stipulation in a note for the payment of attorneys' fees in case of nonpayment of the note at maturity is valid and enforceable, and this because no rule of law or public policy is invaded. *Dorsey* v. *Wolff,* 142 Ill. 589; *Jones* v. *Radatz,* 27 Minn. 240; *First National Bank* v. *Larson,* 60 Wis. 206; *Chase* v. *Whitmore,* 68 Cal. 545; *Bowie* v. *Hall,* 69 Md. 433; *Brahan* v. *First National Bank,* 72 Miss. 266; *Peyser* v. *Cole,* 11 Ore. 39, (But see *Commercial National Bank* v. *Davidson,* 18 Ore. 57); *Miner* v. *Paris Exchange Bank,* 53 Tex. 559. In other states such stipulations are by statute void, *Hartford Security Co.* v. *Eyer,* 36 Neb. 507; *National Bank of Commerce* v. *Fenney,* 9 S. D. 550; in others void as evasions of the usury laws, *Boozer* v. *Anderson,* 42 Ark. 167; *Meyer* v. *Hart,* 40 Mich. 517; *Tinsley* v. *Haskins,* 111 N. C. 340; as against public policy and as providing for penalty

or forfeiture. *Witherspoon* v. *Mussleman,* 14 Bush (Ky.) 214; *Bullock* v. *Taylor,* 39 Mich. 137; *Rixey* v. *Pearre,* 89 Va. 113. But whatever may be the view of the particular court as to the validity of a provision of this kind, it is now well established by the Negotiable Instruments Law that the negotiability of the instrument is not affected thereby. The basis of this statute is the reason found in those cases that followed this rule prior to the statute, i. e. that the requisite of certainty of the sum payable continues till maturity, which satisfies the rule as to certainty of the sum. See *Oppenheimer* v. *Bank,* 97 Tenn. 19; *Morrison* v. *Ornbaum,* 30 Mont. 111.

BILLS AND NOTES—BONA FIDE PURCHASER—HOLDER FOR COLLECTION.—Where a bank habitually credits a depositor's account with negotiable instruments indorsed to it by him, but charges against the account all such instruments as are not paid, the bank is a bailee for collection, and not a bona fide holder for value. *Third National Bank of St. Louis* v. *Exum.* (N. C. 1913) 79 S. E. 498.

The general rule is that where the bank discounts a note for a customer, crediting the proceeds thereof to his account, it is not a bona fide holder for value unless such credit was drawn upon before the maturity of the note and before notice of facts invalidating it in the hands of the payee. *Drovers Bank* v. *Blue,* 110 Mich. 31; *Albany Co. Bank* v. *Peoples Ice Co.,* 92 N. Y. App. Div. 47; *City Deposit Bank* v. *Green,* 130 Ia. 384; *Manufacturers National Bank of Racine* v. *Newell,* 71 Wis. 309; *Thompson* v. *Sioux Falls National Bank,* 150 U. S. 231; *First National Bank* v. *Nelson,* 105 Ala. 180. The instant case, however, does not consider whether or not the proceeds credited to the account of the customer had been drawn upon, but bases its general rule that the bank becomes a mere bailee for collection on the habit adhered to of deducting unpaid instruments from the account of the customer. From the breadth of the doctrine as expressed, it would make no difference that the customer had drawn upon the account and the proceeds credited to same, provided only he has made later deposits from which the unpaid instruments might be deducted at their maturity. This would be contrary to expressed decisions and, it would seem, to the general rule before announced. *Fredonia Nat. Bank* v. *Tommei,* 131 Mich. 674; *Morrison* v. *Farmers and Merchants Bank,* 9 Okla. 697; *Dreilling* v. *National Bank,* 43 Kan. 197; *Fox* v. *Bank of Kansas City,* 30 Kan. 441; *Warman* v. *Bank,* 185 Ill. 60; *Dymock* v. *Midland National Bank,* 67 Mo. App. 97. To the contrary, see *Citizens State Bank* v. *Cowles,* 180 N. Y. 346.

CHATTEL MORTGAGE—UNPLANTED CROPS.—A chattel mortgage on cotton described as located in W. County, Texas, two miles southeast of V. and being "My first, second, third, seventh and eighth bales of my crop of cotton being produced this present crop on the lands owned by J. T. Dunson." *Held*: sufficient to confer a lien on the first, second, third, seventh and eighth lots of cotton baled for mortgagor regardless of whether such lots matured, were picked or ginned first or last; *Houssels* v. *Coe & Hampton,* (Tex. 1913) 159 S. W. 864.

The case presents a question upon which there has been a hopeless con-